

## SECOND DIVISION

[ G.R. No. 214500, June 28, 2017 ]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS,  
MICHELLE DELA CRUZ, \*\*\* ACCUSED-APPELLANT.**

### D E C I S I O N

**PERALTA, \*\* J.:**

Before this Court is an appeal from the Decision<sup>[1]</sup> dated July 2, 2013 of the Court of Appeals (CA) in CA-G.R. CR-HC No. 04935. The CA affirmed the Decision<sup>[2]</sup> dated October 21, 2010 of the Regional Trial Court (RTC) of Makati City in Criminal Cases Nos. 05-412 to 415, which convicted appellant Michelle Dela Cruz of illegal recruitment in large scale and estafa.

Appellant was charged with illegal recruitment in large scale and three (3) counts of estafa under Article 315, paragraph 2(a) of the Revised Penal Code. The Informations against appellant read:

*Criminal Case No. 05-412 for Illegal Recruitment (Large Scale):*

That in or about and sometime from September 21, 2004 to February 18, 2005, in the City of Makati, Philippines and within the jurisdiction of this Honorable Court, the above-named accused not being authorized by the POEA of the Department of Labor and Employment to recruit workers for overseas employment, did then and there willfully, unlawfully and feloniously promise and recruit the following complainants, to wit:

ARMELY AGUILAR UY,  
SHERYL AGUILAR REFORMADO  
& ADONA LUNA QUINES LAVARO

for an overseas job placement abroad and in consideration of said promise, said complainants paid and delivered the total amount of Php300,000.00 as processing fees of their papers, but despite said promise, accused failed to deploy complainants and despite demand to reimburse/return the amount which complainants paid as processing fees, accused did then and there refuse and fail to reimburse/return to said complainants the aforesaid amount, thus in large scale amounting to economic sabotage, in violation of the aforesaid law.

Contrary to law.<sup>[3]</sup>

*Criminal Case No. 05-413 for Estafa under Art. 315, par. 2(a) of the RPC.*

That in or about and sometime from September 21, 2004 to February 18,

2005, in the City of Makati, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, did then and there willfully, unlawfully and feloniously defraud complainant ARMELY AGUILAR UY in the following manner, to wit: The said accused by means of false manifestation and fraudulent representation prior to or simultaneously with the commission of the fraud which she made to the complainant to the effect that she have a power and capacity to recruit workers for the employment of complainant as Domestic Helper in Korea and could facilitate the necessary papers to meet the requirements and by means of other deceit of similar import induced and succeeded in inducing complainant to give and deliver in the total amount of Php 100,000.00, the accused knowing fully well that the same was false and fraudulent and was made only to obtain, as in fact the accused obtained the amount of Php 100,000.00, which the accused applied and used for her own personal use and benefit, to the damage and prejudice of the said complainant ARMELY AGUILAR UY.

Contrary to law.<sup>[4]</sup>

*Criminal Case No. 05-414 for Estafa under Art. 315, par. 2(a) of the RPC.*

That in or about and sometime from September 21, 2004 to February 18, 2005, in the City of Makati, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, did then and there willfully, unlawfully and feloniously defraud complainant ADONA LUNA QUINES LAVARO in the following manner, to wit: The said accused by means of false manifestation and fraudulent representation prior to or simultaneously with the commission of the fraud which she made to the complainant to the effect that she have a power and capacity to recruit workers for the employment of complainant as Domestic Helper in Korea and could facilitate the necessary papers to meet the requirements and by means of other deceit of similar import induced and succeeded in inducing complainant to give and deliver in the total amount of Php 100,000.00, the accused knowing fully well that the same was false and fraudulent and was made only to obtain, as in fact the accused obtained the amount of Php 100,000.00, which the accused applied and used for her own personal use and benefit, to the damage and prejudice of the said complainant ADONA LUNA QUINES LAVARO.

Contrary to law.<sup>[5]</sup>

*Criminal Case No. 05-415 for Estafa under Art. 315, par. 2(a) of the RPC.*

That in or about and sometime from September 21, 2004 to February 18, 2005, in the City of Makati, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, did then and there willfully, unlawfully and feloniously defraud complainant SHERYL AGUILAR REFORMADO in the following manner, to wit: The said accused by means of false manifestation and fraudulent representation prior to or simultaneously with the commission of the fraud which she made to the complainant to the effect that she have a power and capacity to recruit

workers for the employment of complainant as Domestic Helper in Korea and could facilitate the necessary papers to meet the requirements and by means of other deceit of similar import induced and succeeded in inducing complainant to give and deliver in the total amount of Php 100,000.00, the accused knowing fully well that the same was false and fraudulent and was made only to obtain, as in fact the accused obtained the amount of Php100,000.00, which the accused applied and used for her own personal use and benefit, to the damage and prejudice of the said complainant SHERYL AGUILAR REFORMADO.

Contrary to law.<sup>[6]</sup>

The prosecution presented the three (3) private complainants as witnesses to prove the crime of Illegal Recruitment on Large Scale, namely: Armely Aguilar-Uy (*Aguilar-Uy*), Sheryl Reformado (*Reformado*), Adona Lavaró (*Lavaró*), and Rosalina Rosales (*Rosales*) from the Philippine Overseas Employment Administration (*POEA*).

**Testimony of first private complainant Armely Asuilar-Uy:**

Private respondent Aguilar-Uy testified that she and appellant were introduced to each other by a certain Maggie Dela Cruz. Aguilar-Uy claimed that appellant recruited her to work in South Korea as domestic helper. She was told that she will receive P50,000.00 for eight hours of work and an overtime pay totalling to P80,000.00 per month.<sup>[7]</sup> Appellant informed her that she has twelve (12) visas with her and still needed two more persons to go to South Korea.<sup>[8]</sup> Appellant required her to submit the requirements that will be sent to South Korea for authentication.

Aguilar-Uy testified that appellant asked for P100,000.00 from them as payment for expenses needed to go to South Korea. Aguilar-Uy added that considering that she is also paying for her niece, Sheryl Reformado, who also wants to work abroad, she gave appellant the total amount of P200,000.00.

Thereafter, Aguilar-Uy waited for their visas until January 2005, but none were given to them. Aguilar-Uy called up and texted appellant several times to no avail. Upon realizing that they will no longer be able to get their visas, she told appellant to return their passports instead but again appellant did not reply. Finally, when they eventually met on February 18, 2005, appellant asked her anew for additional payment of \$72 to renew their visas. Aguilar-Uy narrated that appellant gave them a stub<sup>[9]</sup> which purported to be coming from the Embassy of the Republic of South Korea. However, when they presented the same to the Korean Embassy, they were told that all their documents were fake. Aguilar-Uy then lodged a complaint against the appellant before the Presidential Task Force Anti-Illegal Recruitment Agency. Appellant promised them that she would pay them back but failed to do so. Aguilar-Uy identified the appellant in open court.<sup>[10]</sup>

**Testimony of second private complainant Sheryl Reformado:**

For her part, private complainant, Sheryl Reformado (*Reformado*) essentially corroborated the testimonies of her aunt, Aguilar-Uy. She testified that she came to know appellant through their neighbor Gemma Dimatera and her sister Maggie Dela

Cruz, who were also applying for work with appellant.<sup>[11]</sup>

Reformado narrated that on September 20, 2004, Gemma Dimatera and Maggie Dela Cruz went to her place at Blk. 22, Lot 13, Makiling St., Mountainview Subdivision, Muzon, San Jose del Monte City, Bulacan and informed her that appellant needed two more applicants to go to South Korea as overseas workers.<sup>[12]</sup> As agreed upon per phone conversation with appellant, they met in front of the Korean Embassy located in Makati. Appellant immediately asked for P40,000.00 from them since the working visa she had with her will expire.<sup>[13]</sup> She corroborated the claim of Aguilar-Uy that on different dates, they gave appellant the total amount of P200,000.00.<sup>[14]</sup> They waited for the processing of their passport and visa from November 2004 up to February 2005 but none were given to them as promised. Appellant gave them many alibis. They later on asked for police assistance and went to the Korean Embassy so they could get their passports, but the Consul scolded her since the papers they submitted were all fake.<sup>[15]</sup> Reformado also identified appellant in open court.<sup>[16]</sup>

**Testimony of third private complainant Adona Lavaró:**

Third private complainant, Adona Lavaró, testified that she was introduced to appellant by a certain Mary Anne Legaspi. She narrated that it was appellant who called her up and told her that her employer, Mr. Simeon Right, was looking for a domestic helper. Lavaró testified that appellant told her that she will be the one to facilitate the processing of her documents and assured her that she would be able to work in South Korea.<sup>[17]</sup>

On different occasions, Lavaró testified that appellant asked her for money to be able to work in South Korea. She claimed to have given appellant the amounts of (1) P40,000.00 as terminal fee, (2) P40,000.00 as processing fee; (3) \$72 for the visa, (4) traveler's checks in the amount of US\$200, and (5) P2,050.00 as terminal fee. Lavaró testified that she gave said amounts of money to appellant because she trusted her and she really wanted to leave for abroad but nothing happened. Lavaró waited for appellant's instruction or call but when appellant finally called her, it was only to ask her anew for money. At this time, she already started to doubt appellant. She later learned that appellant has also been asking money from other people who also wants to work abroad. Lavaró also identified appellant in open court.<sup>[18]</sup>

In the course of the trial, the prosecution formally offered the following evidence to prove the payments made by private complainants to appellant,<sup>[19]</sup> to wit:

Amount	Date Given	Payment Details
P 40,000.00 <sup>[20]</sup>	09/21/04	Received by Accused Michelle Dela Cruz
P 20,000.00 <sup>[21]</sup>	09/27/04	Listed as payment with alleged signature of Accused Michelle Dela Cruz in a green notebook <sup>[22]</sup>
P 20,000.00 <sup>[23]</sup>	10/04/04	Listed as payment with alleged signature

		of Accused Michelle Dela Cruz in a green notebook
P 30,000.00 <sup>[24]</sup>	10/09/04	Listed as payment with alleged signature of Accused Michelle Dela Cruz in a green notebook
P 4,000.00 <sup>[25]</sup>	10/13/04	Listed as payment with alleged signature of Accused Michelle Dela Cruz in a green notebook
P 2,800 <sup>[26]</sup>	10/12/04	Listed as payment with alleged signature of Accused Michelle Dela Cruz in a green notebook
P 8,000 or \$144 <sup>[27]</sup>	10/04/04	Listed as payment with alleged signature of Accused Michelle Dela Cruz in a green notebook
P 10,000.00 <sup>[28]</sup>	10/15/04	Deposited in the Metrobank account of Norlita Hinagpis
P 10,000.00 <sup>[29]</sup>	10/15/04	Deposited in the Equitable PCIBank account of Mario Castillo
P 4,000.00 <sup>[30]</sup>	11/12/04	Deposited in the Metrobank account of Norlita Hinagpis
P 2,000.00 <sup>[31]</sup>	01/05/05	Deposited in the Metrobank account of Norlita Hinagpis
<b>P 150,800.00</b>	<b>TOTAL</b>	

Meanwhile, prosecution witness, Rosalina Rosales testified that as per Certification<sup>[32]</sup> issued by Noriel Devanadera, Director IV, Licensing and Regulation Office, POEA, appellant Dela Cruz is not authorized to recruit workers for overseas employment during the year 2005 up to the present. Rosales was the one who prepared the Certification signed by Director Devanadera.

For the defense, appellant testified that prior to her arrest, she has worked in South Korea as an OFW for five years and three months. She alleged that private complainants, namely, Armely Aguilar, Adona Lavarro and Sheryl Aguilar were introduced to her by a certain Alma Palomares, the sister of her compadre Aldrin who was also an OFW in South Korea.<sup>[33]</sup> Thereafter, private complainants asked her the necessary requirements for them to be able to work in South Korea.

Appellant denied that she promised private complainants any deployment abroad, specifically in South Korea. She claimed that she just told them to secure the